FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR.

Appeal Against Order No.53 of 2007.

The Gondwana Club, Nagpur and other
.vs.
Mr.Amol Munot.

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's orders.

Court's or Judge's Orders

***Coram*: C. L. PANGARKAR J.**
***Dated* : 28th September, 2007.**

1. Heard Mr.H.V.Thakur, Advocate for the appellant and Mr.Shyam Dewani, Advocate for the respondent.

2. This appeal is preferred against the order passed by the Civil Judge (Sr.Dn.), Nagpur on an application for injunction. The respondent/plaintiff has instituted a civil suit

praying for declaration that letter of termination of his membership issued by the appellant/defendant is illegal, improper and unwarranted and to quash it and to set it aside. He also prayed for perpetual injunction and a decree for damages of Rs. 25,00,000/-. In that suit the plaintiff/respondent had filed an application under Order 39 Rule 1 and 2 of C.P.C. and prayed for relief restraining the appellants/defendants from terminating the membership of the respondent/plaintiff of Gondwana Club and restoring the membership of the plaintiff back. The learned Civil Judge after hearing the parties granted the application and directed the appellants/ defendants not to act upon the letter dated 26/2/2007 and also directed to restore back the membership of the plaintiff. Being aggrieved by that order, the defendants have preferred this appeal.

3. It was contended on behalf of the appellants/defendants that the learned

Judge of the lower court has basically granted an injunction in favour of the plaintiff/respondent because he found that the principle of natural justice was not adhered to while terminating his membership. Mr.Thakur, learned counsel for the appellants/defendants, submitted that the appellants/defendants are now ready to take the termination letter back and hold a fresh enquiry in the matter. Mr.Dewani, learned counsel for the plaintiff/respondent, submits that if at all fresh inquiry is to be held, it should be directed by the court that the defendants should give a proper opportunity to the respondent/ plaintiff to defend himself in enquiry, in as much as, the appellants/defendants should be directed to supply all the documents demanded by the plaintiff/respondent in the suit as well as he should be given an opportunity of personal hearing if he so desires during the course of the enquiry. Mr.Thakur, learned counsel, submits that he has no objection to supply

all such documents to the plaintiff as desired by him and he has also no objection to give the personal hearing to the plaintiff/respondent if he makes an application before the enquiry committee for giving him personal hearing.

4. Mr.Thakur, learned counsel, has no objection to enquiry being conducted by any other person than the present committee member who held the enquiry under challenge. Shri Thakur submits that they have no objection to appoint totally independent member of the Gondwana Club, who is not connected with the controversy.

5. The learned counsel for the respondent/plaintiff submits that his client should get the privileges of the Gondwana Club as a member. Once the termination order is taken back, it follows that he will be entitled to enjoy the privileges as a member, but all the same the Managing Committee would always be at liberty to

take the action as provided under bye-laws if any untoward incident happens in future.

6. Pendency of the civil suit will not be an impediment in taking action as may be found necessary in the matter by the Managing Committee in future. The counsel for the appellants/defendants has filed a pursis to that effect. The pursis shall also form part of the direction given by this court besides the one given in this order. In view of this, the appeal stands disposed of. The impugned order, therefore, is set aside without prejudice to the rights of the plaintiff to continue the suit as far as damages part is concerned.

Judge.

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